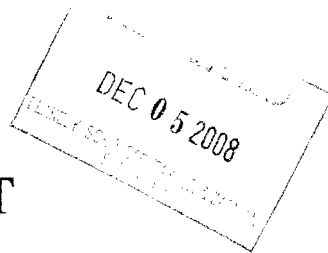


PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

PCT



To:

LESTER J. VINCENT
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT AND
THE WRITTEN OPINION OF THE INTERNATIONAL
SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

Date of mailing
(day/month/year)

02 DEC 2008

Applicant's or agent's file reference

8433P009PCT

FOR FURTHER ACTION See paragraphs 1 and 4 below

International application No.

PCT/US 08/78026

International filing date
(day/month/year)

26 September 2008 (26.09.2008)

Applicant DYNAMIC METHOD ENTERPRISES LIMITED

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes
1211 Geneva 20, Switzerland, Facsimile No.: +41 22 740 14 35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.

3. ☐ **With regard to the protest** against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. Reminders

Shortly after the expiration of **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within **19 months** from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase **until 30 months** from the priority date (in some Offices even later); otherwise, the applicant must, **within 20 months** from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of **30 months** (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450, Alexandria, Virginia 22313-1450
Facsimile No. 571-273-3201

Authorized officer:

Lee W. Young

PCT Helpdesk 571-272-4300
PCT OSP 571-272-7774

Form PCT/ISA/220 (January 2004)

DATE IN TO FOREIGN DOCKETING

DOCKETED BY

REVIEWED BY

DATE OUT

(See notes on accompanying sheet)

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

PCT

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT AND
THE WRITTEN OPINION OF THE INTERNATIONAL
SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

To: LESTER J. VINCENT BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040	<div style="border: 1px solid black; padding: 2px;"> Date of mailing <i>(day/month/year)</i> 02 DEC 2008 </div>
Applicant's or agent's file reference 8433P009PCT	FOR FURTHER ACTION See paragraphs 1 and 4 below
International application No. PCT/US 08/78026	International filing date <i>(day/month/year)</i> 26 September 2008 (26.09.2008)
Applicant DYNAMIC METHOD ENTERPRISES LIMITED	

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

Filing of amendments and statement under Article 19:
 The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes
 1211 Geneva 20, Switzerland, Facsimile No.: +41 22 740 14 35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.

3. ☐ **With regard to the protest** against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Reminders**

Shortly after the expiration of **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within **19 months** from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase **until 30 months** from the priority date (in some Offices even later); otherwise, the applicant must, **within 20 months** from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of **30 months** (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450, Alexandria, Virginia 22313-1450 Facsimile No. 571-273-3201	Authorized officer: <div style="text-align: right;"> Lee W. Young </div> <div style="font-size: small; margin-top: 10px;"> PCT Helpdesk 571-272-4300 PCT OSP 571-272-7774 </div>
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PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 8433P009PCT	FOR FURTHER ACTION see Form PCT/ISA/220 as well as, where applicable, item 5 below.
International application No. PCT/US 08/78026	International filing date (<i>day/month/year</i>) 26 September 2008 (26.09.2008)
(Earliest) Priority Date (<i>day/month/year</i>) 	
Applicant DYNAMIC METHOD ENTERPRISES LIMITED	

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 3 sheets.

☐ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

a. With regard to the **language**, the international search was carried out on the basis of:

- ☒ the international application in the language in which it was filed.
☐ a translation of the international application into _____ which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

b. ☐ This international search report has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43.6bis(a)).

c. ☐ With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2. ☒ **Certain claims were found unsearchable** (see Box No. II).

3. ☐ **Unity of invention is lacking** (see Box No. III).

4. With regard to the **title**,

- ☒ the text is approved as submitted by the applicant.
☐ the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,

- ☒ the text is approved as submitted by the applicant.
☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the **drawings**,

- a. the figure of the **drawings** to be published with the abstract is Figure No. 2c
☐ as suggested by the applicant.
☒ as selected by this Authority, because the applicant failed to suggest a figure.
☐ as selected by this Authority, because this figure better characterizes the invention.
- b. ☐ none of the figures is to be published with the abstract.

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US 08/78026

Box No. II Observations where certain claims were found unsearchable (Continuation of item 2 of first sheet)

This international search report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☐ Claims Nos.:
because they relate to subject matter not required to be searched by this Authority, namely:
2. ☐ Claims Nos.:
because they relate to parts of the international application that do not comply with the prescribed requirements to such an extent that no meaningful international search can be carried out, specifically:
3. ☒ Claims Nos.: 5-11, 15-17, 21-25, 29-33
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box No. III Observations where unity of invention is lacking (Continuation of item 3 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

1. ☐ As all required additional search fees were timely paid by the applicant, this international search report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying additional fees, this Authority did not invite payment of additional fees.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this international search report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this international search report is restricted to the invention first mentioned in the claims: it is covered by claims Nos.:

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest and, where applicable, the payment of a protest fee.
- ☐ The additional search fees were accompanied by the applicant's protest but the applicable protest fee was not paid within the time limit specified in the invitation.
- ☐ No protest accompanied the payment of additional search fees.

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US 08/78026

A. CLASSIFICATION OF SUBJECT MATTER

IPC(8) - H04B 10/08 (2008.04)

USPC - 398/10

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

USPC - 398/10

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched
USPC - 398/9, 10, 16 (keyword limited - see terms below)

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

PubWEST(PGPB,USPT,EPAB,JPAB), Google Scholar

Search Terms - protection, optical signals, switch, splitter, node, failure, monitor, processor, optical fiber, plurality.

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 7,389,018 B1 (Birk et al.) 17 June 2008 (17.06.2008); Abstract; col 2, ln 43-51; col 3, ln 44-54; col 6, ln 4-29, 32-55; col 8, ln 29-55.	1-4, 12-14
X	US 7,099,578 B1 (Gersl) 29 August 2006 (29.08.2006); Abstract; col 5, ln 23-48; col 6, ln 30-51; col 7, ln 38-67, col 8, ln 1-6; col 16 ln 18-23.	18-20, 26-28
A	US 7,206,508 B2 (Sharma et al.) 17 April 2007 (17.04.2007)	1-4, 12-14, 18-20, 26-28

☐ Further documents are listed in the continuation of Box C.

* Special categories of cited documents:

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier application or patent but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art

"Z" document member of the same patent family

Date of the actual completion of the international search

18 November 2008 (18.11.2008)

Date of mailing of the international search report

02 DEC 2008

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US, Commissioner for Patents
P.O. Box 1450, Alexandria, Virginia 22313-1450

Facsimile No. 571-273-3201

Authorized officer:

Lee W. Young

PCT Helpdesk: 571-272-4300
PCT OSP: 571-272-7774

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
LESTER J. VINCENT
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing
(day/month/year) **02 DEC 2008**

Applicant's or agent's file reference
8433P009PCT

FOR FURTHER ACTION

See paragraph 2 below

International application No.
PCT/US 08/78026

International filing date (day/month/year)
26 September 2008 (26.09.2008)

Priority date (day/month/year)

International Patent Classification (IPC) or both national classification and IPC
IPC(8) - H04B 10/08 (2008.04)
USPC - 398/10

Applicant **DYNAMIC METHOD ENTERPRISES LIMITED**

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450, Alexandria, Virginia 22313-1450 Facsimile No. 571-273-3201	Date of completion of this opinion <p style="text-align: center;">18 November 2008 (18.11.2008)</p>	Authorized officer: <p style="text-align: center;">Lee W. Young</p> <div style="text-align: right;"> </div> <p style="font-size: small;">PCT Helpdesk 571-272-4300 PCT OSP 571-272-7774</p>
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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US 08/78026

Box No. 1 Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of:
 - ☒ the international application in the language in which it was filed.
 - ☐ a translation of the international application into _____ which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).
2. ☐ This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, this opinion has been established on the basis of:
 - a. type of material
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material
 - ☐ on paper
 - ☐ in electronic form
 - c. time of filing/furnishing
 - ☐ contained in the international application as filed
 - ☐ filed together with the international application in electronic form
 - ☐ furnished subsequently to this Authority for the purposes of search
4. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
5. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US 08/78026

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of

- ☐ the entire international application
- ☒ claims Nos. 5-11, 15-17, 21-25, 29-33

because:

- ☐ the said international application, or the said claims Nos. _____ relate to the following subject matter which does not require an international search (*specify*):

- ☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 5-11, 15-17, 21-25, 29-33 are so unclear that no meaningful opinion could be formed (*specify*):
Claims 5-11, 15-17, 21-25, 29-33 are dependent claims not drafted in accordance with the second and third sentences of Rule 6.4(a).

- ☐ the claims, or said claims Nos. _____ are so inadequately supported by the description that no meaningful opinion could be formed (*specify*):

- ☒ no international search report has been established for said claims Nos. 5-11, 15-17, 21-25, 29-33

- ☐ a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:

- ☐ furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.
- ☐ furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.
- ☐ pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rule 13*ter*.1(a) or (b).

- ☐ a meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions, and such tables were not available to the International Searching Authority in a form and manner acceptable to it.

- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.

- ☐ See Supplemental Box for further details.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/US 08/78026

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	None	YES
	Claims	1-4, 12-14, 18-20, 26-28	NO
Inventive step (IS)	Claims	None	YES
	Claims	1-4, 12-14, 18-20, 26-28	NO
Industrial applicability (IA)	Claims	1-4, 12-14, 18-20, 26-28	YES
	Claims	None	NO

2. Citations and explanations:

Claims 1-4, and 12-14 lack novelty under PCT Article 33(2) as being anticipated by US 7,389,018 B1 Birk et al. (hereinafter 'Birk').

As per claim 1, Birk discloses a method comprising: splitting an incoming optical signal into a first and a second optical signals; sending the first and the second optical signals to a first and a second equipments in an optical network node, respectively, the second equipment being a protection module for the first equipment (Abstract, col 3, In 44-55); monitoring a first and a second outgoing optical signals from the first and second equipments (col 2, In 43-51); and declaring a failure of the optical network node if only one of the first and the second outgoing optical signals has failed (col 8, In 29-55).

As per claim 2, Birk further discloses the method of claim 1, further comprising outputting only one of the first and the second outgoing optical signals from the optical network node via a switch (col 6, In 4-29).

As per claim 3, Birk further discloses the method of claims 1 or 2, further comprising maintaining a state of the switch if both of the first and the second outgoing optical signals have failed (col 6, In 4-29).

As per claim 4, Birk further discloses the method of claim 3, wherein the maintaining of the state of the switch comprises continuing outputting the only one of the first and the second outgoing optical signals (col 6, In 4-29).

As per claim 12, Birk further discloses a machine-accessible medium that stores instructions which, if executed by a processor, will cause the processor to perform operations comprising (col 6, In 32-55): splitting an incoming optical signal into a first and a second optical signals; sending the first and the second optical signals to a first and a second equipments in an optical network node, respectively, the second equipment being a protection module for the first equipment (Abstract, col 3, In 44-55); monitoring a first and a second outgoing optical signals from the first and second equipment (col 2, In 43-51); and declaring a failure of the optical network node if only one of the first and the second outgoing optical signals has failed (col 6, In 4-29, col 8, In 29-55).

As per claim 13, Birk further discloses the machine-accessible medium of claim 12, wherein the operations further comprise outputting only one of the first and the second outgoing optical signals from the optical network node via a switch (col 6, In 4-29).

As per claim 14, Birk further discloses the machine-accessible medium of claims 12 or 13, wherein the operations further comprise maintaining a state of the switch if both of the first and the second outgoing optical signals have failed (col 6, In 4-29).

Claims 18-20, and 26-28 lack novelty under PCT Article 33(2) as being anticipated by US 7,099,578 B1 ('Gerstel').

As per claim 18, Gerstel discloses an apparatus comprising: a first optical equipment in an optical network device having a first plurality of input ports and a first plurality of output ports; a second optical equipment in the optical network device having a second plurality of input ports and a second plurality of output ports, the second optical equipment being a protection module of the first optical equipment (Abstract, col 6, In 30-46); a plurality of optical signal splitters, each of the plurality of optical signal splitters coupled to one of the first plurality of input ports and one of the second plurality of input ports, to split an incoming optical signal into a first and a second optical signals and to input to the first and the second optical equipments, respectively (col 6, In 47-51); and a plurality of optical signal switches, each of the plurality of the optical signal switches coupled to one of the first plurality of output ports and one of the second plurality of output ports, to select a first output optical signal from the first optical equipment or a second output optical signal from the second optical equipment, wherein the plurality of optical signal switches are switched together substantially simultaneously (col 7, In 38-67, col 8, In 1-6).

As per claim 19, Gerstel further discloses the apparatus of claim 18, wherein a respective optical signal switch switches to select a second output optical signal from the second optical equipment if the first output optical signal fails and the second output optical signal has not failed, and the respective optical signal switch remains unchanged if both the first output optical signal and the second output optical signal fail (Abstract, col 5, In 34-48, col 16 In 18-23).

As per claim 20, Gerstel further discloses the apparatus of claims 18 or 19, wherein the respective optical signal switch remains unchanged to continue selecting the first output optical signal if both the first output optical signal and the second output optical signal fail (col 16 In 18-23).

------(continued on supplemental pages)-----

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US 08/78026

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Box No. V.2 - Citations and explanations:

As per claim 26, Gerstel further discloses a system comprising: a plurality of optical fibers; and a plurality of optical nodes coupled to each other via the plurality of optical fibers, each of the plurality of optical nodes (col 5, ln 23-33) comprising: a first optical equipment in an optical network device having a first plurality of input ports and a first plurality of output ports; a second optical equipment in the optical network device having a second plurality of input ports and a second plurality of output ports, the second optical equipment being a protection module of the first optical equipment (Abstract, col 6, ln 30-46); a plurality of optical signal splitters, each of the plurality of optical signal splitters coupled to one of the first plurality of input ports and one of the second plurality of input ports, to split an incoming optical signal into a first and a second optical signals and to input to the first and the second optical equipment, respectively (col 6, ln 47-51); and a plurality of optical signal switches, each of the plurality of the optical signal switches coupled to one of the first plurality of output ports and one of the second plurality of output ports, to select a first output optical signal from the first optical equipment or a second output optical signal from the second optical equipment, wherein the plurality of optical signal switches are switched together substantially simultaneously (col 7, ln 38-67, col 8, ln 1-6).

As per claim 27, Gerstel further discloses the system of claim 26, wherein a respective optical signal switch switches to select a second output optical signal from the second optical equipment if the first output optical signal fails and the second output optical signal has not failed, and the respective optical signal switch remains unchanged if both the first output optical signal and the second output optical signal fail (Abstract, col 5, ln 34-48, col 16 ln 18-23).

As per claim 28, Gerstel further discloses the apparatus of claims 26 or 27, wherein the respective optical signal switch remains unchanged to continue selecting the first output optical signal if both the first output optical signal and the second output optical signal fail (col 16 ln 18-23).

Claims 1-4, 12-14, 18-20, and 26-28 have industrial applicability as defined by PCT Article 33(4) because the subject matter can be made or used in industry.

NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under Article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the *PCT Applicant's Guide*, a publication of WIPO.

In these Notes, "Article," "Rule" and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions, respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report and the written opinion of the International Searching Authority, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only (see *PCT Applicant's Guide*, Volume I/A, Annexes B1 and B2).

The attention of the applicant is drawn to the fact that amendments to the claims under Article 19 are not allowed where the International Searching Authority has declared, under Article 17(2), that no international search report would be established (see *PCT Applicant's Guide*, Volume I/A, paragraph 296).

What parts of the international application may be amended ?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Preliminary Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When ? Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments ?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

How ? Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments ?

Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

"Statement under Article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)). The statement will be published with the international application and the amended claims.

It must be in the language in which the international application is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments and any accompanying statement, under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the time of filing the amendments (and any statement) with the International Bureau, also file with the International Preliminary Examining Authority a copy of such amendments (and of any statement) and, where required, a translation of such amendments for the procedure before that Authority (see Rules 55.3(a) and 62.2, first sentence). For further information, see the Notes to the demand form (PCT/IPEA/401).

If a demand for international preliminary examination is made, the written opinion of the International Searching Authority will, except in certain cases where the International Preliminary Examining Authority did not act as International Searching Authority and where it has notified the International Bureau under Rule 66.1bis(b), be considered to be a written opinion of the International Preliminary Examining Authority. If a demand is made, the applicant may submit to the International Preliminary Examining Authority a reply to the written opinion together, where appropriate, with amendments before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later (Rule 43bis.1(c)).

Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see the *PCT Applicant's Guide*, Volume II.